S.B.CIVIL MISC. APPEAL NO.213/2007
(Ram Niwas Meena Vs. The Udaipur Central Cooperative Bank Ltd. & ors.)

DATED : 3rd August 2007

HON'BLE MR.JUSTICE DINESH MAHESHWARI

Mr.N.S.Rajpurohit for the appellant

Mr.Suresh Kumbhat) for the respondents
Mr.B.K.Bhatnagar)
Mr.Vishal Raj Mehta)

The claimant-appellant, aged about 40 years and working as Assistant Engineer in Public Works Department of the Government of Rajasthan, sustained injuries including fracture of tibia and fibula bones in a vehicular accident that occurred on 04.05.2004. On the application for compensation made by the appellant, the Tribunal has noticed the fact that the claimant-appellant remained hospitalised for five days and was under treatment for about a month; and despite noticing that the claimant has not furnished details of his leave account, has allowed an amount of Rs.5,000/- on that count. The Tribunal has then scanned through the entire documentary evidence concerning treatment expenditure and transportation; and while disbelieving several of the bills for want of their connectivity with the injuries and treatment and for want of their reliability, has considered it proper to allow Rs.35,000/- towards treatment expenditure and Rs.5,000/-

towards transportation. The Tribunal has further allowed Rs.5,000/- towards pain and suffering. Though the Tribunal has observed that the claimant has failed to show by cogent evidence any adverse effect on the chances of future promotion but having regard to the injuries suffered by him and looking to 18% permanent disablement suggested by the certificate Ex.16, has allowed further an amount of Rs.25,000/-. In this manner, the Tribunal has awarded total compensation in the sum of Rs.75,000/- with interest at the rate of 6% per annum from the date of filing of claim application. The claimant seeks enhancement in this appeal.

It has been strenuously contended on behalf of the appellant that he has suffered 18% permanent disablement with shortening of leg and looking to the injuries and disablement and adverse impact on personal life and service career of the claimant, the amount awarded by the Tribunal remains much on the lower side. It has further been contended that as against the bills of expenditure produced by the claimant in the sum of Rs.51,000/-, there was no justification for the Tribunal to have allowed only an amount of Rs.35,000/-. The submissions do not merit acceptance.

The Tribunal has minutely scanned through the entire documentary evidence and has rightly found that when the claimant was under treatment for about a month or so at

Udaipur, there was no connectivity of the expenditure stated in relation to his alleged treatment at private hospitals at Ahmedabad much later in time; and that much of the computerised vouchers were neither authenticated nor the concerned doctors were examined.

In the same sequence, it is noticed that the bills of transportation as produced on record (Ex.65 and 65) are of regular and frequent visits to Ahmedabad and it is not established on record that such visits were only and exclusively in relation to the treatment of the accident injury. The pathological examination reports of the months of October 2004 (Ex.50 to 54) and March 2005 (Ex.44 to Ex.47 and Ex.49) obtained from a laboratory at Ahmedabad could hardly be co-related with the treatment of the injuries sustained in the accident. It is rather strange that the receipt in the amount of Rs.30,000/-, produced on record as Ex.60, bears no revenue stamp. In the overall circumstances of the case, the Tribunal cannot be said to have erred in awarding Rs.35,000/- towards treatment expenditure.

Looking to the nature of injury of the appellant, of fracture of tibia & fibula bones, and looking to the nature of his employment, it does not appear to be a case of any loss of income or loss of earning capacity at all. Further, looking to nature of disability certificate (Ex.16) stating 18% permanent

disability with reference to 'pain and difficulty in walking, unable to squat and sit cross-leg, limping, ROM knee 0º-110º; muscle wasting and shortening 1 cm. of limb' the total amount towards non-pecuniary loss at Rs.30,000/- does not appear to be grossly inadequate.

Ultimate award of Rs.75,000/- as made in this case appears to be that of just compensation and there appears no scope for enhancement.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI),J.

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